

1 The Hon. Robert S. Lasnik
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UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

10 UNITED STATES OF AMERICA,
11 Plaintiff,
12 v.
13 JOHN HOLCOMB,
14 Defendant.

NO. CR21-075-RSL

**PRELIMINARY ORDER
OF FORFEITURE**

16 THIS MATTER comes before the Court on the United States' Motion for
17 Preliminary Order of Forfeiture ("Motion") seeking to forfeit, to the United States,
18 Defendant John Holcomb's interest in the following property:

19 a. one Toshiba High-Performance P300 hard drive; and
20 b. any and all images of child pornography, in whatever format and however
21 stored.

22 The Court, having reviewed the United States' Motion, as well as the other papers
23 and pleadings filed in this matter, hereby FINDS entry of a Preliminary Order of
24 Forfeiture is appropriate for the following reasons:

25 • The above-identified property is forfeitable pursuant to 18 U.S.C. § 2253(a)
26 as it consists of prohibited images and/or property the Defendant used to

1 commit or to facilitate his commission of Production of Child Pornography,
2 in violation of 18 U.S.C. § 2251(a) and (e); and,

3 • In the Plea Agreement he entered on December 7, 2022, Defendant agreed
4 to forfeit this property pursuant to 18 U.S.C. § 2253(a). Dkt. No. 95, ¶ 11.

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6 NOW, THEREFORE, THE COURT ORDERS:

7 1. Pursuant to 18 U.S.C. § 2253(a) and his Plea Agreement, the Defendant's
8 interest in the above-identified property is fully and finally forfeited, in its entirety, to the
9 United States;

10 2. Pursuant to Fed. R. Crim. P. 32.2(b)(4)(A)-(B), this Preliminary Order will
11 be final as to the Defendant at the time he is sentenced, it will be made part of the
12 sentence, and it will be included in the judgment;

13 3. The United States Department of Justice, the Federal Bureau of
14 Investigation (FBI), and/or their authorized agents or representatives shall maintain the
15 hard drive in their custody and control until further order of this Court. The FBI shall
16 destroy any prohibited images unless they have been destroyed already or will be retained
17 for official, investigative use, as permitted by 21 U.S.C §§ 853(i) and 881(e);

18 4. Pursuant to Fed. R. Crim. P. 32.2(b)(6) and 21 U.S.C. § 853(n), the United
19 States shall publish notice of this Preliminary Order and its intent to dispose of the hard
20 drive as permitted by governing law. The notice shall be posted on an official
21 government website - currently www.forfeiture.gov - for at least thirty (30) days. For any
22 person known to have alleged an interest in the hard drive, the United States shall, to the
23 extent possible, provide direct written notice to that person. The notice shall state that any
24 person, other than Defendant, who has or claims a legal interest in the hard drive must
25 file a petition with the Court within sixty (60) days of the first day of publication of the
26 notice (which is thirty (30) days from the last day of publication), or within thirty (30)
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1 days of receipt of direct written notice, whichever is earlier. The notice shall advise all
2 interested persons that the petition:

- 3 a. shall be for a hearing to adjudicate the validity of the petitioner's alleged
4 interest in the hard drive;
- 5 b. shall be signed by the petitioner under penalty of perjury; and,
- 6 c. shall set forth the nature and extent of the petitioner's right, title, or
7 interest in the hard drive, as well as any facts supporting the petitioner's
8 claim and the specific relief sought.

9 5. If no third-party petition is filed within the allowable time period, the
10 United States shall have clear title to the hard drive, and this Preliminary Order shall
11 become the Final Order of Forfeiture as provided by Fed. R. Crim. P. 32.2(c)(2);

12 6. If a third-party petition is filed, upon a showing that discovery is necessary
13 to resolve factual issues it presents, discovery may be conducted in accordance with the
14 Federal Rules of Civil Procedure before any hearing on the petition is held. Following
15 adjudication of any third-party petitions, the Court will enter a Final Order of Forfeiture,
16 pursuant to Fed. R. Crim. P. 32.2(c)(2) and 21 U.S.C. § 853(n), reflecting that
17 adjudication; and,

18 7. The Court will retain jurisdiction for the purpose of enforcing this
19 Preliminary Order, adjudicating any third-party petitions, entering a Final Order of
20 Forfeiture, and amending the Preliminary Order or Final Order as necessary pursuant to
21 Fed. R. Crim. P. 32.2(e).

22 IT IS SO ORDERED.

23 DATED this 7th day of March, 2023.

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THE HON. ROBERT S. LASNIK
UNITED STATES DISTRICT JUDGE

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2 Presented by:
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4 s/ Jehiel I. Baer
5 JEHIEL I. BAER
6 Assistant United States Attorney
7 United States Attorney's Office
8 700 Stewart Street, Suite 5220
9 Seattle, WA 98101
10 Phone: (206) 553-2242
11 Fax: (206) 553-6934
12 Jehiel.Baer@usdoj.gov
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